

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Communications Assistance for Law)	ET Docket No. 04-295
Enforcement Act and Broadband Access)	
and Services)	RM-10865
)	
)	
)	

To: The Commission

**COMMENTS OF THE AMERICAN LIBRARY ASSOCIATION,
ASSOCIATION OF RESEARCH LIBRARIES AND ASSOCIATION
OF COLLEGE AND RESEARCH LIBRARIES IN SUPPORT OF
USTA PETITION FOR RECONSIDERATION**

The American Library Association, Association of Research Libraries and Association of College and Research Libraries (“ALA/ARL/ACRL”)¹ support the USTA Petition for Reconsideration to extend the compliance date for the Communications Assistance for Law Enforcement Act (“CALEA”) as the Federal Communications

¹ ALA is the oldest and largest library association in the world, with more than 64,000 members. Its mission is to promote the highest quality library and information services and public access to information. ARL is a nonprofit organization of 123 research libraries in North America. ARL programs and services promote equitable access to and effective uses of recorded knowledge in support of teaching, research, scholarship and community service. ACRL is a division of the American Library Association (ALA), representing more than 13,000 academic and research librarians and interested individuals. ACRL is the only individual membership organization in North America that develops programs, products and services to meet the unique needs of academic and research librarians. Its initiatives enable the higher education community to understand the role that academic libraries play in the teaching, learning and research environments.

Commission (“Commission”) has applied it to facilities-based providers of broadband Internet access.²

As of this date, the library community has absolutely no idea as to whether it, or the networks it relies on for Internet connectivity, are subject to CALEA. The Commission stated overtly in its Order that it was not to be in the public interest *at this time* to extend CALEA to libraries that procure broadband Internet access through a commercial Internet Service Provider (“ISP”).³

Further, the Commission has stated in regard to private networks, “that to the extent these private networks are interconnected with a public network, either the PSTN or the Internet, providers of the facilities that support the connection of the private network to a public network are subject to CALEA under the SRP.”⁴ ALA/ARL/ACRL understands this to mean that private local or regional municipal networks, campus networks or through affiliation with regional and national high-speed networks such as Internet2’s Abilene network and its local affiliates are not covered by CALEA either, but the commercial access provider supporting connection to the public Internet would have the primary obligation.

ALA/ARL/ACRL asked the Commission to confirm these understandings in light of the Department of Justice comments, which state unequivocally that there are no exceptions to coverage under the *CALEA Broadband Order*.⁵ The Commission has not

² See *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, ET Docket No. 04-295 (Rel. Sept. 23, 2005), *published* 70 Fed. Reg. 59,664 (Oct. 13, 2005)(“ *CALEA Broadband Order*”).

³ *Id.* ¶ 36, n.99.

⁴ *CALEA Broadband Order* ¶ 36, n.100.

⁵ See Reply Comments of the United States Department of Justice on the Further Notice of Proposed Rulemaking, ET Docket No. 04-295 (Dec. 21, 2005) at 13-14.

yet done so, leaving libraries to guess or risk enforcement action if they take their chances and rely on the now-disputed Commission determination.

And if libraries were to prepare today to meet the requirements of CALEA, what would those requirements be? The Commission itself has stated that the term “call identifying information” is ambiguous and asked for comment on how to define it in the context of Internet access.⁶ The Commission also asked for comment on when such information is “reasonably available.”⁷ And most important in the context of private network interconnection, the Commission asked whether the access provider would have the obligation to extract call identifying information from a communications stream.⁸

Lastly, the Commission has said it will release another order “in the coming months” to address questions “regarding the assistance capabilities required of the providers covered by” the CALEA Broadband Order.⁹ It is unreasonable, indeed arbitrary and capricious, to require any newly covered entity to comply with requirements that the Commission has yet to announce and to mandate such compliance within the 18 month timeframe that the Commission set in its initial Order. The final deadline for compliance for any newly covered entity should be, at a minimum, 18 months after the requirements are set forth in the Commission’s next order.

ALA/ARL/ACRL again asks the Commission to confirm that libraries and the private nonprofit networks that interconnect them and route traffic, including traffic to the commercial Internet, are not covered by CALEA. Further, the Commission should

⁶ See *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, Notice of Proposed Rulemaking and Declaratory Ruling, ET Docket No. 04-295 (2004) at ¶ 67.

⁷ *Id.*

⁸ *Id.* at ¶ 67-68

⁹ *CALEA Broadband Order* at ¶ 3.

grant the USTA petition for reconsideration of the compliance date and require no further action by covered entities until the requirements are clear. To do otherwise imposes an enormous burden on libraries, which do not have the technical expertise or resources to plan for a CALEA implementation that may not even be necessary, nor the information on requirements to even begin to analyze whether compliance is reasonably achievable if required.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Albert G. Coie", is written over a horizontal line.

**AMERICAN LIBRARY ASSOCIATION
ASSOCIATION OF RESEARCH LIBRARIES
ASSOCIATION OF COLLEGE AND RESEARCH LIBRARIES**

By Their Attorney

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Dated: January 30, 2006